

1 Scott Townley and Stephanie Tashiro-Townley, pro se  
2 23639 SE 267<sup>th</sup> place  
3 Maple Valley, WA 98038  
4 425-413-2637  
5 Fax: 866-400-7824

Honorable Judge Marc L. Barreca  
Chapter 13

Hearing Location: Seattle

Hearing Date: October 7, 2010

Hearing Time: 9:30 a.m.

Response due: September 30, 2010

FILED  
2010 AUG 18 PM 12:13  
CLERK OF COURT  
U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF WASH. AT SEATTLE  
NEP CLK

8 **UNITED STATES BANKRUPTCY COURT**  
9 **WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

10 In re:

11 **SCOTT TOWNLEY and**  
12 **STEPHANIE TASHIRO-TOWNLEY**  
13 **Debtors.**

Case No. 09-22120 KAO

**OBJECTION TO CLAIM OF LITTON LOAN  
SERVICING L.P., AS A SERVICING AGENT  
FOR THE BANK OF NEW YORK MELLON,  
F/K/A THE BANK OF NEW YORK AS  
TRUSTEE FOR THE  
CERTIFICATEHOLDERS CWABS INC.  
ASSET BACKED CERTIFICATES, SERIES  
2005-10 AND NOTICE OF HEARING**

15 COME NOW Scott Townley and Stephanie Tashiro-Townley, in pro se, and object to Bank  
16 of Mellon New York's secured claim. Debtors assert the following:

- 17 1. Debtors filed for relief under Chapter 13 of the bankruptcy code on November 18,  
18 2009.
- 19 2. Debtors reaffirm all statements contained within the DECLARATION OF SCOTT  
20 TOWNLEY AND STEPHANIE TASHIRO-TOWNLEY IN SUPPORT OF  
21 OBJECTION TO CLAIM OF BANK OF MELLON NEW YORK  
22
- 23 3. Debtors assert their right to Self Defense and seek full protection in this court under  
24 those rights.  
25  
26

OBJECTION TO CLAIM

Scott Townley and Stephanie Tashiro-Townley, pro se  
23639 SE 267<sup>th</sup> place, Maple Valley, WA 98038

- 1           4.     Litton Loan Servicing L.P and Bank of New York Mellon, through Routh Crabtree  
2                 Olsen, P.S., filed a secured claim for \$321,473.34 on January 6, 2010. Litton Loan  
3                 Servicing L.P. claims to be the servicer for the Bank of New York Mellon, as Trustee  
4                 for CWABS, Inc. 2005-10. We, the undersigned, assert that they cannot be the  
5                 Holder of the alleged Note as merely a Trustee for the property at 23639 SE 267<sup>th</sup>  
6                 place, Maple Valley, WA 98038. At best they could allege to be an agent for the  
7                 alleged Holder but have not presented proof to the court that they are or by what  
8                 authority within the trust they attempt to lay claim to the alleged Note in basic  
9                 compliance with RCW 62A.3-103(10).  
10  
11  
12           5.     First, the Motion for Relief of Stay filed by Ms. Aspaas in May 2010 and the Notice  
13                 of Sale from July 2009 states that the trustee of Certificateholders of CWL, Inc.  
14                 2005-10 is bringing the actions against the debtors. According to Exhibit A of the  
15                 Affidavit, CWABS, Inc. is the depositor. CWABS, Inc. did not bring the action  
16                 against the Debtors, CWL, Inc. is.  
17  
18           6.     According to the California Secretary of State, CWABS Inc. (Exhibit A) and CWL  
19                 Inc. (Exhibit B) are separate entities having been registered with two different  
20                 addresses and having different registration identifications. Debtors assert that due to  
21                 this fact alone, the wrong party (CWABS Inc.) is attempting to bring the claim  
22                 against the debtors and thus, Bank of New York Mellon is not the party of interest in  
23                 this matter.  
24  
25           7.     In filing for a Secured Claim, Litton Loan Servicing L.P. and Bank of Mellon New  
26                 York attached a "copy" of the alleged Deed of Trust as well as the alleged Adjustable

1 Rate Balloon Note and related Riders. Debtors have received numerous "copies"  
2 similar to this from various sources. Copies of such a document fall under the  
3 Hearsay rules of evidence and in no way prove that Bank of Mellon New York is the  
4 Holder in due course of the "Original Wet Ink Note". Debtors continue to demand  
5 strict proof that Bank of Mellon New York is the Holder in due course by producing  
6 the Original Wet Ink Note before this court. Furthermore, even the "copy" provided  
7 as an attachment to this claim undermines & nullifies the claim of Bank of Mellon  
8 New York. The Adjustable Rate Balloon Note no doubt intends to demonstrate the  
9 Note was perfected to the benefit of Countrywide Home Loans. There is no  
10 endorsement showing transfer to Bank of New York Mellon causing the note to fall  
11 short of the requirements of RCW 62A.3-204(a) where clearly "Endorsement"  
12 means a signature" and WAC 196-23-070(1)(a) defining signature as "handwritten"  
13 and "Original and written by hand".  
14

- 15  
16 8. Debtors requested a certified copy of the note on June 11, 2010 with Judge  
17 Overstreet, who ordered opposing Routh Crabtree Olsen P.S.' counsel to provide  
18 that note (on June 11, 2010 transcript 31 minutes 26 seconds). This document has  
19 never been produced. Furthermore, Judge Overstreet also stated that the "note"  
20 entered into record prior to June 4, 2010 did not show that Bank of New York  
21 Mellon had any standing. She ordered for proof that Litton Loan Servicing L.P.  
22 holds the note for Bank of New York Mellon. The affidavit entered into the record  
23 on August 5<sup>th</sup>, falls short of that as it is stated within the affidavit that Litton is  
24 working on obtaining the note for its records (#11).  
25  
26

- 1 9. Furthermore, nowhere on the “copies” attached to Litton Loan Servicing L.P. and  
2 Bank of New York Mellon’s Proof of Claim is there any evidence whatsoever  
3 proving this Note was sold, assigned, or transferred to anyone. The “copies” of this  
4 Note (and therefore the Original Wet Ink Note if it exists) do not in any way support,  
5 validate or evidence Bank of New York Mellon’s Proof of Claim. The “copies” of  
6 the Note (and therefore the Original Wet Ink Note if it exists) indicate they are not  
7 the Holder in due course. Debtors assert that Litton Loan Servicing L.P. and Bank of  
8 New York Mellon have no standing in this matter and demands strict proof of a clear  
9 chain of title that demonstrates they are in legal possession of the alleged Note or are  
10 Agents of the true Holder in due course.  
11  
12  
13 10. The affidavit submitted by Litton Loan Servicing LP in support of Bank of Mellon  
14 also stated that the note was endorsed, which means that it has been cashed out. If  
15 the Note is endorsed as the affiant stated, then it has been altered and deposited in an  
16 account bearing the account number it was deposited into, and as such can no longer  
17 be used as a security instrument, and as the original unaltered Note has been  
18 “cashed” by the endorser allegedly Countrywide Home Loans, Inc. Any alleged debt  
19 was thereby extinguished.  
20  
21 11. The affidavit submitted to the court on August 5, 2010, also states that the original  
22 Promissory Note is not, and therefore was not in the possession of the plaintiff, Bank  
23 of New York Mellon, at the time of the alleged creditors filing of motion for relief of  
24 stay. Nor did the affiant (Litton Loan Servicing, L.P.) testify as to the owner of the  
25 Promissory Note.  
26

- 1           12.   Debtors assert that Bank of New York Mellon has no legal claim to Beneficiary  
2           Interest in the Deed of Trust. MERS was listed on the Deed of Trust as a nominee  
3           and beneficiary under the security instrument. Countrywide Home Loans is listed on  
4           the Note as the Noteholder. Bank of New York Mellon is not mentioned in either  
5           place. We further assert that the Note and Deed of Trust were not properly assigned  
6           to Bank of New York Mellon and, because of this, is not the holder of the Note and  
7           Deed of Trust. This means that they lack standing to seek relief from the stay to  
8           enforce those documents.  
9  
10          13.   Debtors object to the final document in the proof of claim which shows a MERS  
11          servicer search back on January 5, 2010. MERS is a corporation. They are not a  
12          bank or other financial institution. They maintain records for banks but do not  
13          perform any transfers or assignments of notes or deeds. Using the same website that  
14          Routh Crabtree Olsen P.S. utilized to print their final exhibit in their proof of claim  
15          in January 2010, we performed a search using Borrower's name, Social Security  
16          Number, and Zip Code. Two different sets of data were obtained for Scott Townley  
17          (Exhibit C) and Stephanie Tashiro-Townley (Exhibit D). Since the exhibit in the  
18          proof of claim showed one of the three records under Stephanie Tashiro-Townley's  
19          record (Exhibit D) and the exhibit does not match Scott Townley's record (Exhibit  
20          C), the exhibit in the proof of claim is faulty at best as it should have matched the  
21          records for the Debtors. Since neither Exhibit C or Exhibit D with the proof of  
22          claim exhibit, Debtors assert that MERS has no bearing on this matter in showing the  
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1 current servicer or proving standing. Nor could they support Bank of New York  
2 Mellon's proof of claim.

3 14. The Debtors assert that if Bank of New York Mellon had the note and deed  
4 transferred to them, it would have to have been prior to the closing of the mortgage  
5 pool, CWL, Inc. 2005-10, sometime in October, 2005. It was not until July 24, 2009  
6 that King County records listed Bank of New York Mellon as the Beneficiary of the  
7 Deed of Trust. As a matter of record, Countrywide Home Loans was on the verge of  
8 bankruptcy itself and was purchased by Bank of America in 2008. Since  
9 Countrywide Home Loans was the original Note and Deed holder, without any  
10 transfer of both note and deed to Bank of New York Mellon prior to the purchase of  
11 Countrywide by Bank of America, Bank of New York Mellon could not possibly be  
12 the holder of the note. To separate the note and the deed of trust is to nullify them  
13 both. In the United States Bankruptcy Court for the Eastern District of California  
14 dated May 20, 2010 in the matter of In Re: Walker, Case No. 10-21656-E-11, it was  
15 ruled that with MERS on the Deed of Trust and not on the Note, there was an  
16 intention to separate the two documents. Bellistri v. Ocwen Loan Servicing, LLC,  
17 Court of Appeals, Eastern District denied Ocwen Loan Servicing of any rehearing or  
18 transfer due to MERS not being listed on the note.

19 15. Debtors assert Bank of Mellon New York cannot be a Holder in due course pursuant  
20 to RCW 62A.3-302(a)(1) and RCW 62A.3-302(a)(2)

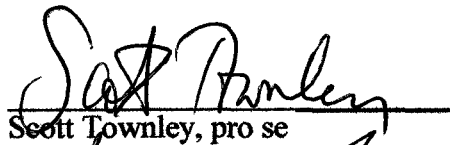
21 16. Debtors finally assert that there are questions in terms of the Deed of Trust  
22 Assignment to Bank of New York Mellon recorded July 24, 2009. Ms. Bailey is an  
23  
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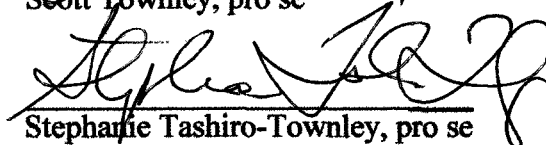
1 employee of Litton Loan in Texas. MERS is located in Virginia and has only that  
2 one location listed on their company website. If Ms. Bailey is an employee of  
3 MERS, proof should be submitted to the court to show this. If not, then the Deed of  
4 Trust assignment is faulty as Ms. Bailey signed as an employee of MERS when she  
5 in fact is not. (see SIMEON MORENO, Chapter 13, Debtor Case No. 08-17715-  
6 FJB. United States Bankruptcy Court, D. Massachusetts, Eastern Division.  
7 May 24, 2010.)  
8

- 9 17. Debtors assert that the Unconscionability of Litton Loan Servicing L.P., Bank of  
10 New York Mellon, and NW Trustee completely unsubstantiated claim in its totality  
11 rises to the level of attempting to commit fraud upon this court.  
12

13 WHEREFORE, Debtors respectfully request the entry of an order denying the claim of Bank  
14 of Mellon New York, as secured or unsecured, with prejudice.  
15

16 DATED this 17th day of August, 2010.

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19 Scott Townley, pro se

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21 Stephanie Tashiro-Townley, pro se  
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**NOTICE OF MOTION**

Please take notice that on October 7th, 2010 at 9:30 a.m., I shall appear in the U.S. Bankruptcy Court for the Western District of Washington at 700 Stewart Street, Seattle WA 98123 before the Honorable Judge Marc L. Barreca in Courtroom 7106 and then and there present the following motion:

**Objection to Claim of Bank of New York Mellon**

**(Objection to Claim of Litton Loan Servicing LP, as a Servicing Agent for the Bank of New York Mellon, F/K/A the Bank of New York as Trustee for the Certificateholders CWABS INC. Asset-Backed Certificates, Series 2005-10)**

Any party opposing this motion should file a written response with the Court and serve a copy upon the undersigned by September 30, 2010, or the Court, in its discretion, can grant the motion without further notice.

Date August 17, 2010

Signature

  
Scott Townley

Name

  
Stephanie Tashiro-Townley

Address

23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

OBJECTION TO CLAIM

Scott Townley and Stephanie Tashiro-Townley, pro se  
23639 SE 267<sup>th</sup> place, Maple Valley, WA 98038



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2 23639 SE 267<sup>th</sup> place  
3 Maple Valley, WA 98038  
4 425-413-2637  
5 Fax: 866-400-7824

Honorable Judge Marc L. Barreca  
Chapter 13  
Hearing Location: Seattle  
Hearing Date: October 7, 2010  
Hearing Time: 9:30 a.m.  
Response due: September 30, 2010

6 **UNITED STATES BANKRUPTCY COURT**  
7 **WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

7 In re: ) Case No. 09-22120 KAO  
8 SCOTT TOWNLEY and )  
9 STEPHANIE TASHIRO-TOWNLEY ) **(PROPOSED)** ORDER DENYING CLAIM  
10 Debtor. ) OF BANK OF NEW YORK MELLON

11  
12 THIS MATTER having come on regularly for hearing before the undersigned Judge on the  
13 Debtor's objection to claim submitted by Bank of New York Mellon, the Court finds and concludes  
14 that notice is appropriate under the circumstances. Now, therefore, it is hereby ORDERED that  
15 claim by Bank of New York Mellon, with a priority unsecured component of \$321,473.34 is denied  
16 in its entirety.

17 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

18  
19 \_\_\_\_\_  
20 The Honorable Marc L. Barreca  
United States Bankruptcy Judge

21 Presented by:  
22 Scott Townley, pro se  
23 Stephanie Tashiro-Townley, pro se

Approved by:  
  
OFFICE OF THE CHAPTER 13 TRUSTEE

24  
25 \_\_\_\_\_  
26 Scott Townley, pro se  
Stephanie Tashiro-Townley, pro se  
Attorney for Debtor

\_\_\_\_\_  
K. Michael Fitzgerald  
Chapter 13 Trustee

OBJECTION TO CLAIM

Scott Townley and Stephanie Tashiro-Townley, pro se  
23639 SE 267<sup>th</sup> place, Maple Valley, WA 98038



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 solicitations)
**Business Entity Detail**

Data is updated weekly and is current as of Friday, August 13, 2010. It is not a complete or certified record of the entity.

Entity Name:	CWABS, INC.
Entity Number:	C1978949
Date Filed:	09/12/1996
Status:	ACTIVE
Jurisdiction:	DELAWARE
Entity Address:	30930 RUSSELL RANCH RD, CA6-916-02-01
Entity City, State, Zip:	WESTLAKE VILLAGE CA 91362
Agent for Service of Process:	C T CORPORATION SYSTEM
Agent Address:	818 W 7TH ST
Agent City, State, Zip:	LOS ANGELES CA 90017

\* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
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 (misleading business  
 solicitations)
**Business Entity Detail**

Data is updated weekly and is current as of Friday, August 13, 2010. It is not a complete or certified record of the entity.

Entity Name:	CWL, INC.
Entity Number:	C2648523
Date Filed:	04/28/2004
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	4700 LANG AVE STE D
Entity City, State, Zip:	MCCLELLAN CA 95652
Agent for Service of Process:	DEANNA PAYNE
Agent Address:	2940 VIRGINIA AVE
Agent City, State, Zip:	SHASTA LAKE CA 96019

\* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
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EXHIBIT C



**Process Loans, Not Paperwork™**

1 record matched your search:

MIN: 1000157-0001324252-0 Note Date: 10/31/2002

MIN Status: Inactive

Servicer: BAC Home Loans Servicing, LP  
Simi Valley, CA

Phone: (800) 669-6607

Investor: CHL for CAMC (Distressed Assets)  
Simi Valley, CA

Phone: (805) 577-4436

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Website: URL -  
<https://www.mers-servicerid.org/sis/Search>

Search by Property Address / Borrowers details  
Search by Borrower Name, SSN and  
Property Zip Code

This search used - Scott Townley,  
his SSN and 98038 zip code.



## Process Loans, Not Paperwork™

3 records matched your search:

MIN: 1000157-0007137533-7 Note Date: 08/07/2006

MIN Status: Active

Servicer: Litton Loan Servicing LP  
Houston, TX

Phone: (800) 247-9727

Investor: This investor has chosen not to display their information. For assistance, please contact the servicer.

MIN: 1000157-0005314852-0 Note Date: 07/26/2005

MIN Status: Active

Servicer: Litton Loan Servicing LP  
Houston, TX

Phone: (800) 247-9727

Investor: This investor has chosen not to display their information. For assistance, please contact the servicer.

MIN: 1003080-0001617080-2 Note Date: 09/27/2005

MIN Status: Inactive

Servicer: HSBC Mortgage Services  
Elmhurst, IL

Phone: (800) 333-7023

Investor: HSBC Mortgage Services  
Elmhurst, IL

Phone: (800) 333-7023

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Search by Property Address / Borrowers detail  
Search by Borrower name, SSN, and  
Property Zip Code

The search used- Stephanie Tashiro-Townley  
her SSN and 98038 Zip code